

FINELLI CONSULTING ENGINEERS, INC.

205 ROUTE 31 NORTH
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FAX: (908) 835-9909
EMAIL: FCE@FINELLICON.COM
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February 25, 2022

Via Email Only

Mayor Brian Tipton and Committee Members
HARMONY TOWNSHIP MUNICIPAL BUILDING
3003 Belvidere Road
Phillipsburg, New Jersey 08865

Re: **Harmony Sand & Gravel, Inc.**
2022 Quarry Operating Permit Application
Block: 7, Lots: 1, 1.01, 2, 14 & 14B
Harmony Township, Warren County
FCE No. HAWM257C1

Dear Mayor Brian Tipton and Committee Members:

Our office has received the following information in support of the 2022 Quarry Operating Permit Application of Harmony Sand & Gravel, Inc.:

1. Copy of Application for Operation of Sand & Gravel Pits and Other Industrial Excavations in Harmony Township for year 2022.
2. Four (4) color photos of Hartung Pit 2
3. Plans entitled "2022 Mine License Renewal," consisting of fifteen (15) sheets, prepared by LAN Associates, Inc., dated January 24, 2022.
4. Bonding estimates prepared by LAN Associates, Inc., dated January 24, 2022 for the following:
 - a. Front Pit
 - b. Hartung Pit 2 (Star D Farms)
 - c. Haul Road with Lowered Profile
5. Restoration Performance Bond No. 601112355 with an expiration date of December 31, 2022.
6. Mine Registration Certificate No. 004885 with an expiration date of March 31, 2023.
7. NJDEP Flood Hazard Area & Wetlands Permit for relocated Haul Road dated July 14, 2021
8. Mitigation Proposal for relocated Haul Road prepared by LAN Associates dated February 14, 2022.

CIVIL CONSULTING & MUNICIPAL ENGINEERS
LAND SURVEYORS PLANNERS



Summary of Application

The HS&G 2022 quarrying application proposes to continue the underwater mining of sand and gravel from the Front Pit and to continue the final restoration of Pit 2 (on 3 sides only). These are the same activities which have been ongoing for the last few years.

The 2022 application includes relocation of the existing haul road. This work was approved by the Committee as part of the 2020 quarrying permit and commenced in 2021. The relocated haul road runs around the south side of the Front Pit. The existing haul road is being relocated to permit mining of the sand and gravel deposits lying beneath it.

The 2022 application also proposes a resumption of mining along the south side of Pit 2 to begin removal of the material beneath the existing haul road. This work is scheduled to commence upon completion of the haul road relocation.

Completeness Review

1. Documentation is required confirming payment of the required \$1,500 application fee for the 2022 quarrying permit.
2. Township Attorney Campbell should confirm that the required fifteen (15) day advance notice has been provided to adjoining property owners prior to commencement of the hearing.

Technical Review

1. Pit 2 Comments (Block 7, Lot 1).

- a. In 2019 the final restoration slopes for Pit 2 were revised to require 3:1 finished slopes above elevation 253.0 and 1.7:1 slopes below elevation 253.0. Based upon our review of the 2022 Mine License Renewal plans prepared by LAN Associates, which include as-built cross sections of Pit 2 taken on January 13, 2022, the current slopes along the north, east and west sides of Pit 2 appear to meet the above required slope criteria including the underwater portion of the slopes.

Based upon a site inspection conducted by our office on February 23, 2022 there are some relatively small isolated areas along the north side of the pit along the water line and higher up along the existing evergreen screen that appear to exceed the 3:1 criteria based upon field measurements taken with a "Smart Level". We recommend that the engineer revise the three (3) cross-sections from Station 0+00 to 2+00 to be plotted at an expanded scale so that these areas can be better evaluated.

- b. For the Township's records we will be providing, under separate cover, copies of some photos of Pit 2 and compliance letters from EarthEfficient confirming that the imported



fill from each source used in the restoration was tested and determined to meet NJDEP's clean fill standards.

- c. On Sheet X-1 the cross sections should be revised to indicate and clarify the limits of proposed future mining to the north of the haul road. We believe that the mining should end somewhere in the vicinity of Section B-B.
- d. Topsoiling, fertilizing, seeding and mulching is required to be completed on the northerly and easterly sides of Pit 2. This work was completed along the west side of Pit 2 in 2015 and 2016, however previous inspections showed spotty vegetative cover. As soon as the weather warms this office will conduct an inspection to confirm whether there has been full germination and the coverage is acceptable. Topsoiling, fertilizing, seeding and mulching may commence on the remaining Pit 2 slopes based upon the as-built plans which indicate that the slopes are compliant.
- e. Landscaping including shade trees, evergreen trees and flowering trees is required to be installed around the perimeter of Pit 2. It is noted that a 50 feet wide buffer with evergreen trees as required by the plans along Roxburg Station Road was installed a number of years ago and is acceptable.

2. Front Pit Comments (Block 7, Lots 2, 14 & 14B)

- a. Underwater mining by dragline in the Front Pit will continue in 2022. Per the 2004 Land Use Board approval mining is permitted down to elevation 200.0. Based upon current survey information there are no portions of the pit where the excavation has reached below elevation 200.0 so we take no exception to the continuation of the mining.
- b. The ordinance requires staged restoration of disturbed areas larger than 15 acres where mining has been completed. Since mining is ongoing in the Front Pit there are no areas that meet the criteria for interim restoration and therefore no restoration is warranted within the Front Pit at this time. Due to the presence of existing steep slopes, provisions and guarantees for an interim restoration of the Front Pit should be required to protect the Township in the event that the mining activity is abandoned.

3. Haul Road Comments.

- a. The 2022 application proposes to commence mining of the materials beneath the existing haul road. A relocated haul road is currently under construction around the south side of the Front Pit to provide continued access from County Route 519 to the processing plant along the Delaware River. Until the steep, high slopes of the existing haul road are mitigated by mining activity the Township should continue to require guarantees for a potential interim restoration of these slopes.



- b. The applicant should be required to conduct the mining and removal of the existing haul road in accordance with the June 30, 2016 Superior Court decision in the litigation between HS&G and Star D. Farms.
- c. Plans for the relocated haul road were received in 2020 and the work was authorized by the Township as part of HS&G's 2020 quarrying permit. A Flood Hazard Area & Wetlands Permit dated July 14, 2021 has been received from NJDEP authorizing the work subject to the applicant providing mitigation for encroachments into the wetlands along the Buckhorn Creek. Per NJDEP, the mitigation activities are permitted to be conducted concurrently with the construction of the haul road.

4. Performance Guarantee / Maintenance Guarantee.

- a. The Township currently holds a \$1,000,000 performance bond which has been extended through December 31, 2022. The bond covers the final restoration work in Pit 2 and potential interim restoration of the Front Pit and the Haul Road.

LAN's restoration estimate dated January 24, 2022 is as follows:

Front Pit (potential interim restoration)	\$309,626
Pit 2 (final restoration)	\$ 25,754
Haul Road (potential interim restoration based upon lowered profile)	<u>\$336,474</u>
	\$671,854

LAN's January 26, 2021 restoration estimate was as follows:

Front Pit (potential interim restoration)	\$382,124
Pit 2 (final restoration)	\$277,507
Haul Road (potential interim restoration based upon lowered profile)	<u>\$336,474</u>
	\$996,105

- b. The January 24, 2022 bonding estimate indicates that there is \$671,854 of actual and potential restoration work remaining. The \$1,000,000 bond could be reduced if requested by the applicant and approved by this office and the Township Committee. This would reduce the portion of the guarantee set aside for Pit 2 to include only Final Pit Restoration(topsoil, seeding, etc...) and landscaping items. No request for reduction has been received by this office.
- c. Per Condition No. 4 in the 2019 quarrying approval resolution, upon final acceptance of the Pit 2 restoration work by the Township Committee a separate ten (10) year \$200,000 maintenance guarantee should be provided to cover any repairs which may be needed either above or below the water.



5. General Comments.

- a. The applicant shall continue to fund its escrow account to allow for the required reviews and inspections.
- b. The applicant shall maintain safety berms along any steep slopes in the Front Pit and along both sides of the Haul Road during the ongoing mining activities and restoration.
- c. The applicant shall supply the following:
 - Upper Delaware Soil Conservation District Permit for the Relocated Haul Road as modified for the NJDEP required wetlands mitigation.
 - Certificate of Insurance with the Township and FCE named as additional insureds.

We will be available to discuss this matter with the Committee at the March 1, 2022 meeting. Please do not hesitate to call me if there are any questions.

Very truly yours,

FINELLI CONSULTING ENGINEERS, INC.

Michael S. Finelli, P.E., P.P., C.M.E.
Township Engineer

cc: Courtney Morrow, Deputy Clerk, via email
Katrina Campbell, Esq., Township Attorney, via email
Richard L. Hummer, Harmony Sand & Gravel, Inc., via email
LAN Associates, Inc., via email
Scott Wilhelm, Esq., via email



Engineering,
Planning,
Architecture,
Surveying Inc.

Harmony
Sand
WB #1

March 31, 2022

Finelli Consulting Engineers, Inc.
205 Route 31 North
Washington, NJ 07882

Attn: Mr. Michael S. Finelli, P.E., P.P.

Via Email: FCE@finellicon.com

Subject: 2022 Quarry Operating
Permit Application
Harmony Sand & Gravel, Inc.
Harmony Township, Warren County
LAN Job #2.3432.0

Dear Mr. Finelli:

LAN Associates Engineering, Planning, Architecture, Surveying, Inc. (LAN) is providing this letter in response to your February 25, 2022, comment letter (Attachment #1) to address the comments in advance of the April 5, 2022, Harmony Township Committee meeting. Our responses to those comments requiring clarification are as follows:

Technical Review

1. Pit 2 Comments (Block 7, Lot 1)

- a. To address your concern for relatively small, isolated areas along the north side of the pit along the water line and higher up along the existing evergreen screen that appear to exceed the 3:1 criteria, LAN's survey team obtained an additional 200 elevation data points throughout that area. Drawing S-4 was revised, and Drawing X-5 was created to include additional cross-sections from -1+00 to 2+00 at 25' intervals. The refined updates to the topography indicate limited slopes in excess of 3:1 are present at Sections -0+75 and -0+50, an area in the northwest corner of the pit which has established trees growing. Captioned photographs area included as Attachment #2. Based on the presence of trees in this isolated area, it was not regraded, and the growth was maintained.
- b. The cross-sections on Drawing X-1 depict the original limits of the excavation area based on the approval received to excavate below the water level and the existing conditions. Since it was part of the original drawing package submitted for the approval, it has remained with the drawing set each year to demonstrate that the excavation has not extended beyond the approved boundaries. The labeling of the cross-section has been revised to reflect the existing conditions to the south of Section C-C, the new proposed final grade between Sections C-C and B-B and the existing and final grade to the north of Section B-B.

2. Front Pit Comments (Block 7, Lots 2, 14 & 14B)

- c. The bond estimates submitted include a cost of \$309,626 to address the need for an interim restoration in the event that the mining activity is abandoned.

3. Haul Road Comments

- a. The bond estimates submitted include a cost of \$336,474 to address the need for an interim restoration in the event that the mining activity is abandoned.

4. Performance Guarantee/Maintenance Guarantee

- b. Based on the estimates submitted for the restoration of the Front Pit, Pit 2, and Haul Road totaling \$671,584 for the potential interim or final restoration of these areas, Harmony Sand & Gravel, Inc. requests that the bond requirement be reduced from the current \$1,000,000 to \$671,584.

5. General Comments

- c. The application to amend the Upper Delaware Soil Conservation District Permit for the Relocated Haul Road as modified for the NJDEP required wetland mitigation was submitted on February 11, 2022, and revised on March 25, 2022, based on NJDEP comments on the mitigation plan. A copy of the approval will be submitted upon receipt.

Enclosed are the revised Drawings S-4, X-1 and X-5 as discussed above. Upon approval of the new mining license, complete sets of drawings will be issued for the record.

I look forward to further discussing this matter further at the Township Committee Meeting on April 5, 2022.

Respectfully submitted,

LAN Associates, Engineering, Planning,
Architecture, Surveying, Inc.



Ronald Panicucci, P.E.
CEO/Treasurer

Attachments: #1 Finelli Consulting Engineers, Inc. Comment Letter, dated February 25, 2022;
#2 Captioned Photographs.

Enclosures: #1 Revised Drawings S-4, X-1, and X-5.

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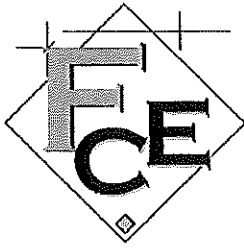
cc: File #2.3432.0, w/atts.

Courtney Morrow, Deputy Clerk, w/atts. (via Email: harmonyoffice@ptd.net)
Katrina Campbell, Esq. Township Attorney, w/atts. (via Email: kcampbell@lsaclaw.com)
Richard L. Hummer, Jr., w/atts. (via Email: humjr4@aol.com)
Scott M. Wilhelm, Esq., w/atts. (via Email: wilhelms@wwgclaw.com)
Patrick Smith, w/atts. (via Email: stardfarm@gmail.com)
Brian Tipton, Mayor, w/atts. (via Email: btipton@floriolaw.com)
Richard Cornely, Committeeman, w/atts. (via Email: rickcornely@yahoo.com)
Diane Yamrock, Deputy Mayor, w/atts. (via Email: yamrock@yahoo.com)
Steven Gruenberg, Esq. w/atts. (via Email: stevenpgruenberg@gruenberglegal.com)

LAN ASSOCIATES

ATTACHMENT 1

Finelli Consulting Engineers, Inc. Comment Letter, dated February 25, 2022



FINELLI CONSULTING ENGINEERS, INC.

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WASHINGTON, NJ 07882
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 - Certificate of Insurance with the Township and FCE named as additional insureds.

We will be available to discuss this matter with the Committee at the March 1, 2022 meeting. Please do not hesitate to call me if there are any questions.

Very truly yours,

FINELLI CONSULTING ENGINEERS, INC.

Michael S. Finelli, P.E., P.P., C.M.E.
Township Engineer

cc: Courtney Morrow, Deputy Clerk, via email
Katrina Campbell, Esq., Township Attorney, via email
Richard L. Hummer, Harmony Sand & Gravel, Inc., via email
LAN Associates, Inc., via email
Scott Wilhelm, Esq., via email

LAN ASSOCIATES

ATTACHMENT 2

Captioned Photographs



3/26/22. Looking west across the north side of Hartung Pit #2. Slope in excess of 3:1 exists in the area of trees growing in the northwest corner of the pit and along the berm with evergreen screen.



3/26/22. Looking west across the north side of Hartung Pit #2. Slope in excess of 3:1 exists in the area of trees growing in the northwest corner of the pit and along the berm with evergreen screen.



3/26/22. Looking northeast at the evergreen screen across the northern end of Hartung Pit 2. Slope in excess of 3:1 is a result of the berm created for planting the trees.

LAN ASSOCIATES

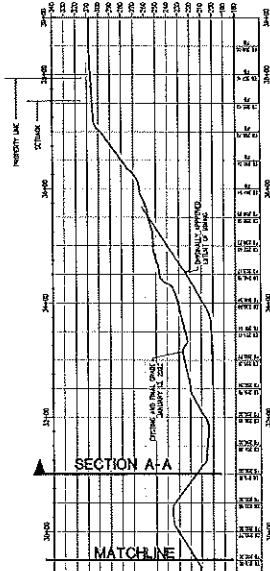
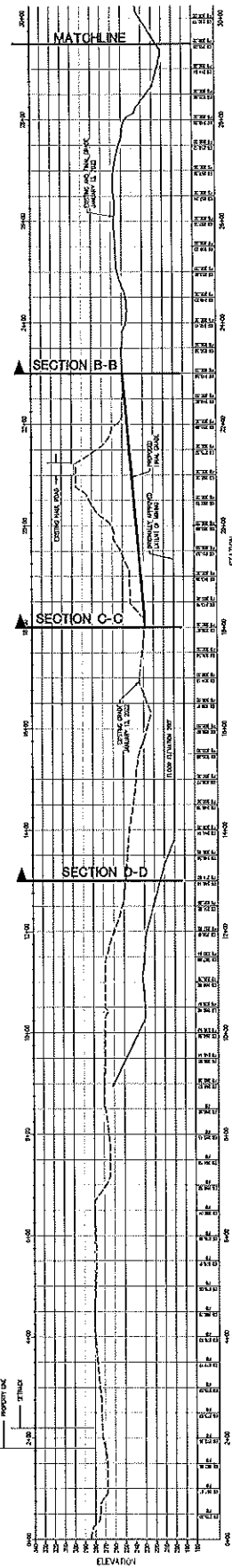
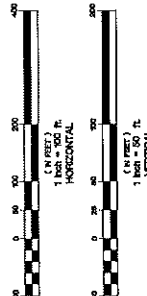
ENCLOSURE 1

Revised Drawings S-4, X-1 and X-5

FINAL PLAN CROSS SECTIONS
2022 HOSE LICENSE RENEWAL
RICHMOND SAND & GRAVEL, INC.
RICHMOND TOWNSHIP, WESTERN COUNTY, NJ
100' HORIZ. SCALE
1" = 100' HORIZ.
1" = 50' VERT.

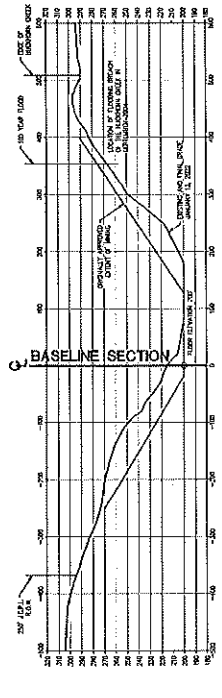
LAN ASSOCIATES
Engineering • Planning • Architecture • Surveying
445 ROCKY HILL ROAD, WESTFIELD, N.J. 07093 (201) 447-4400

RONALD M. PANICCUCCI, P.E.
Professional Engineer
License No. 140231713

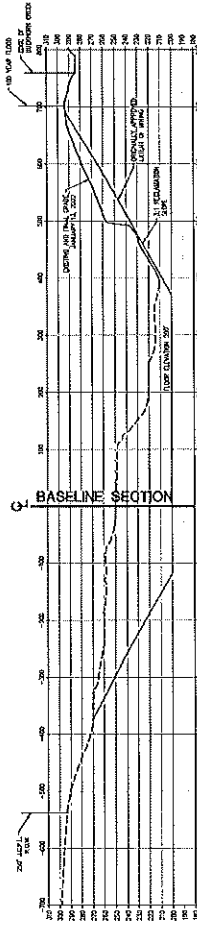


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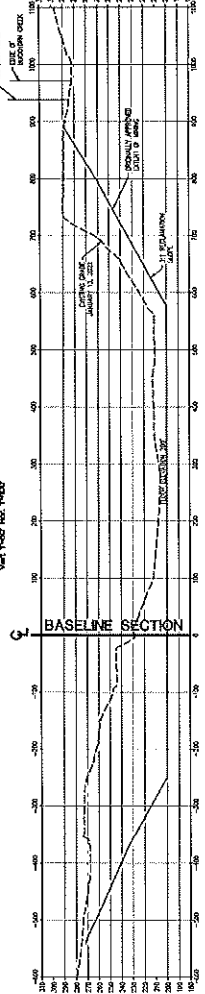
BASELINE SECTION



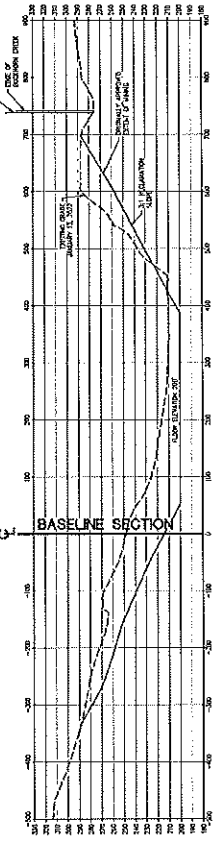
SECTION A-A



SECTION B-B



SECTION C-C

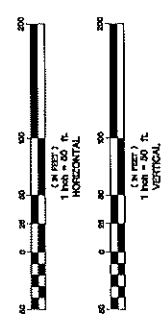


SECTION D-D

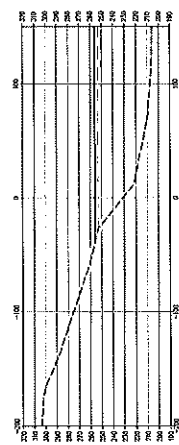
HARTUNG PT CROSS SECTIONS
HARTUNG TOWNSHIP, WYOMING COUNTY, NJ
RICHARD L. HARTUNG, Sr., PRESIDENT
HARTUNG SAND & GRAVEL, INC.
2022 WRE LICENSE RENEWAL

LAN ASSOCIATES
engineering • planning • architecture • surveying
445 ROCKY HILL, WILMINGTON, DE 19806 (302) 447-4400

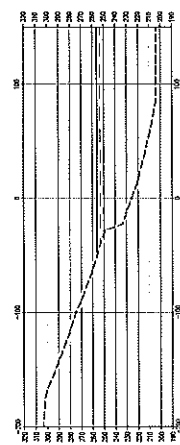
RONALD M. PANICCUCCI, P.E.
PROFESSIONAL ENGINEER
STATE OF DELAWARE
1000 N. ASTOR DRIVE



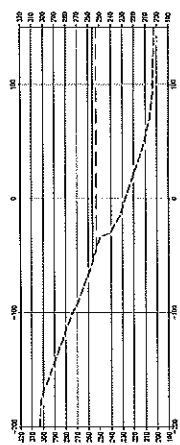
SECTION 1+00



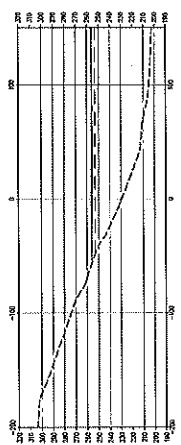
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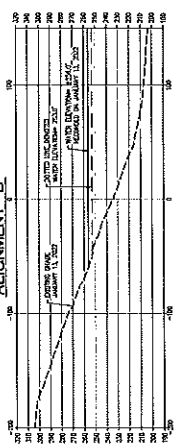
SECTION 0+50



SECTION 0+25

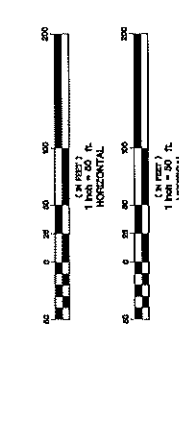


SECTION 0+00

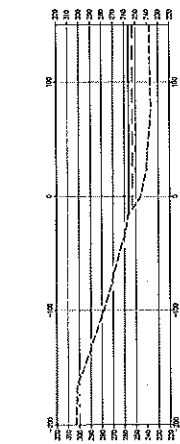


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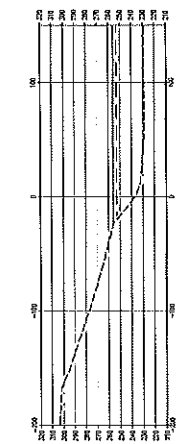
SECTION 2+00



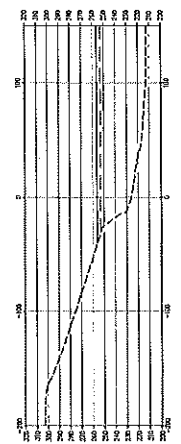
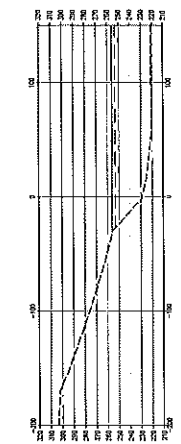
SECTION 1+75



SECTION 1+50



SECTION 1+25



~~1589~~ April
NB #2

Page 1 of 2

HARMONY TOWNSHIP
3003 Belvidere Road
Phillipsburg, NJ 08865
Phone (908) 213-1600 Fax (908) 213-1850

JUNKYARD LICENSE APPLICATION
2022

1. Name of Applicant: Jeffery J. Riddle Sr. / Shondor's Used Auto
Address: 1735 River Road Phillipsburg NJ 08865 Parts
Phone #: 908-636-8068
2. If firm, corporation, etc; name and addresses of all officers, registered agents, or partners: _____

3. Explain in detail the nature of business to be conducted:
Used cars + parts

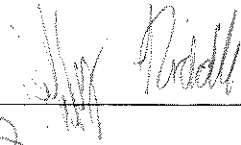
4. Class of material to be stored:
Cars

5. Address of business establishment including a full description of same:
1735 River Road Harmony
Phillipsburg NJ 08865
6. Block and Lot number of premises to be licensed as shown on the Harmony Township Tax Map: Block 47.01 Lot 23, 24
7. Do you own or lease the premises? own
8. A copy of the ordinance licensing and regulating junk dealers and junk yards has been supplied to me and I am familiar with the same: Yes _____ No _____
9. If you are not the owner of the premise, consent of owner to conduct said business shall be endorsed by owner:

10. Describe in detail the type of enclosure surrounding your premise:

Gates
Fences
Dirt

Signature (applicant):



Dated:

2/22/22

DO NOT WRITE BELOW THIS LINE
FOR OFFICE USE ONLY

\$350 Application Fee Received:

Yes ☒ No ☐ Cash ☒ Check #

Date Received by Harmony Township Clerk's Office: 2.23.22

Date Forwarded to Municipal Engineer & Municipal Attorney: 2.28.22

Rev. 3/06

**HARMONY TOWNSHIP
WARREN COUNTY, NEW JERSEY**

O:22-1

**AN ORDINANCE OF THE TOWNSHIP OF HARMONY, COUNTY OF WARREN,
STATE OF NEW JERSEY AMENDING SECTION 136 OF THE
CODE OF THE TOWNSHIP OF HARMONY TO REGULATE SHORT TERM
RENTALS**

WHEREAS, the Township wishes to prohibit short term rentals of dwellings or dwelling units for a period of 90 days or less subject to certain exceptions; and

WHEREAS, it has come to the Township Committee's attention that incidents have occurred in the State of New Jersey where pools, dwellings and other similar spaces have been rented out for parties; and

WHEREAS, the Township wishes to prohibit pools, dwellings and other amenities from being rented within the Township;

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Harmony, in the County of Warren, State of New Jersey, as follows:

SECTION 1.

Chapter 136. Short-Term Rentals

§136-1 Prohibited Conduct.

No person shall undertake, maintain, authorize, aid, facilitate, solicit, promote and advertise any rental or activity that violates any part of this article.

§136-2 Short Term Rental Restrictions.

- A. Notwithstanding anything to the contrary in the Township Code, it shall be unlawful for any person, including, but not limited to, an owner, lessor, sublessor with any possessory interest in any dwelling unit, to receive compensation of any kind for the use, occupancy, or rental of any dwelling or dwelling unit for a period of 90 days or less except for the following:
1. "Use and occupancy" arrangements between the purchaser and seller of a dwelling, whereby the purchaser of the dwelling is temporarily occupying or renting the seller's dwelling prior to closing on the purchase of the dwelling pursuant to the terms of a written contract or agreement

- B. Notwithstanding anything to the contrary in the Township Code, it shall be unlawful for any person, including, but not limited to, an owner, lessor, sublessor with any possessory interest in any dwelling unit, to receive compensation of any kind for the use, occupancy, lease or rental, for any purpose and for any period of time, of any amenity, feature, or accessory that is appurtenant to or associated with any rental facility, rental unit, dwelling (including but not limited to, a duplex, multiple, or single-family) or residential structure is prohibited. "Amenity, feature, or accessory" shall include, but is not limited to, swimming pools, pool cabanas, accessory structures, hot tubs, decks, patios, yards and the like.
- C. Notwithstanding anything to the contrary in the Township Code, it shall be unlawful for any person, including, but not limited to, an owner, lessor, sublessor with any possessory interest in any dwelling unit, to receive compensation of any kind for the use, occupancy, lease or rental, for any purpose and for any period of time, of property or portion of property for camping, glamping or recreational vehicle space.

§136-3 Regulations; fees and charges.

The Township Committee may promulgate regulations, which may include but are not limited to permit conditions, reporting requirements, inspection frequencies, enforcement procedures, advertising restrictions, disclosure requirements, or insurance requirements, to implement the provisions of this article. No person shall fail to comply with any such regulation.

§136-4 Enforcement.

The provisions of this article shall be enforced by the Township Zoning Officer, Fire Department, Police Department and any other Township official or employee so designated by the Township Clerk/Administrator who all shall be authorized to issue summons or other appropriate civil violations or complaints for any violations of the terms and provisions of this article.

§136-5 Fines, violations and penalties.

1. Any person who is found or adjudicated to have violated any provision of this article shall be liable for a fine not to exceed \$1,000. Each day of any such violation after receiving written notice of same shall be a new and separate violation.
2. The penalty imposed herein shall be in addition to any and all other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorney's fees or other fees and costs, in the Township's Municipal Court or the Superior Court of New Jersey in the vicinage of Warren County, or in such other court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 2. All ordinances or parts of ordinances which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistencies only.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect after final passage and publication in accordance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced to pass on the first reading meeting of the Township Committee of the Township of Harmony held on April 5, 2022, and ordered published in accordance with the law. Said Ordinance will be considered for final reading and adoption at a regular meeting of the Township Committee to be held on May 3, 2022, at 6:00 p.m. or as soon thereafter as the Township 3003 Belvidere Road, Phillipsburg, New Jersey, at which time all persons interested may appear for or against the passage of said Ordinance.

Kelley Smith, Township Clerk